

DUMFRIES, VIRGINIA

Virginia's Oldest Continuously Chartered Town

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To: Town Council

From: David Moss, Town Planner

Date: November 9, 2011

RE: Proposed Rezoning for Hashimi Property
17651 Washington Street

STAFF REPORT

Rezoning #11-63, Hashimi Property

Town Council Public Hearing Date: November 15, 2011

Staff Recommendation: Recommend Approval with Conditions

I. Background is as follows:

- A. Request - This is a request to rezone 3.055 acres from R-2, General Residential to B-2, Neighborhood Commercial.
- B. Site Location - The site is identified by the GPIN number 8189-82-6152, and the address is 17651 Washington Street. The site is located directly on Fairfax Street, a paper street. This is the property's only direct street frontage. The southwest border of the property runs parallel to Washington Street and is approximately 350 feet away from the edge of Washington Street. The southeast border of the property runs parallel to Main Street and is approximately 300 feet away from the edge of Main Street.
- C. Comprehensive Plan - The site is designated Greenway/Open Space/Recreational-Limited Development in the Future Land Use Map dated January 1993.
- D. Zoning - The site is currently zoned R-2, General Residential.
- E. Surrounding Land Uses - The subject site is bordered to the north by vacant properties owned by the landfill. To the west and to the northeast are single-family homes. Directly to the southwest is a nonconforming trailer park. To the south and southeast are commercial properties fronting on Main Street, to include several properties owned by the applicant, including a site proposed to be used as a commercial office building.
 - 1. The proposal indicates that the use of the subject property would be an accessory parking lot with possible other accessory uses to serve the property immediately south of the site. However, as of the writing of this staff report, no proffers have yet been received by staff. The property immediately south of the site, GPIN

8189-82-7721, addressed 17706 Main Street, is currently zoned B-2 and is proposed for a commercial office building, though no site plan has yet been submitted to pursue this use. The applicant's proposal, while indicating the use of the subject site as accessory to the adjacent site, offers no guarantees at this time that the property would be used as such. The proposal is therefore, at this time, a straight-forward rezoning of the property from R-2 to B-2.

II. Current Situation is as follows:

- A. Applicant has requested a public hearing and wishes to move forward with this rezoning. The initial application was submitted to the Town in February, 2011. Since then the applicant has met with town staff on numerous occasions and discussed the proposal with the Planning Commission. The applicant has submitted revisions to the proposed site plan based on comments from town staff and the Planning Commission.
- B. Planning Commission Public Hearing & Review - A public hearing before the Planning Commission was held August 8, 2011. No public input was received. The Planning Commission Recommends that the Dumfries Town Council **Approve** Rezoning Application # 11-63, (Hashimi Property), Conditioned on a Proffer that the Development of the Property be in Substantial Compliance with the Site Plan Cover Sheet Dated 7-7-2011, Layout Sheet Dated 5-24-2011, Landscape Plan Sheet Dated 7-7-2011, Typical Section Sheet Dated 5-24-2011, and Proffered that any Public Improvements required by the development of 17651 Washington Street be borne by the applicant.
- C. Adjacent Property Owners – Adjacent property owners were notified of the proposed rezoning by certified mail prior to the Planning Commission Public Hearing and prior to the Town Council Public Hearing. As yet no comments have been received by staff.

III. Issues in order of importance are as follows:

- A. Comprehensive Plan
 - 1. Goals and Objectives - Is the proposed use consistent with those uses intended by the goals and objectives of the Comprehensive Plan?
 - 2. Valid Public Purpose – Would the rezoning promote a valid public purpose as stated in the Comprehensive Plan?
- B. Community Input - Have members of the community raised any issues?
- C. Legal Uses of the Property - What uses are allowed on the property? How are legal issues resulting from the Town Council action addressed?

IV. Alternatives beginning with the staff recommendation are as follows:

A. Recommend leaving open the public hearing to allow for further review of proffers and additional time for any public comment, and continuing this case to the next Town Council meeting on December 6th to allow staff time for more in-depth review of the proffers.

1. Comprehensive Plan

- a) Goals and Objectives - If the public hearing is left open and the case continued until the next Town Council meeting on December 6th, the Goals and Objectives of the Comprehensive Plan can still be promoted upon approval of the rezoning at a later date and eventual development of the property.
 - b) Valid Public Purpose – If the public hearing is left open and the case continued until the next Town Council meeting on December 6th, the valid public purposes stated in the Comprehensive Plan can still be promoted upon approval of the rezoning at a later date and eventual development of the property.
2. Community Input - If the public hearing is left open, the public will have additional time to provide input on the rezoning and associated proffers.
3. Legal Uses of the Property – Upon approval of the rezoning, the subject site could be developed only with uses detailed in the proffers. Legal issues resulting from Town Council action are appropriately addressed by the Town Attorney.

B. Recommend denial of REZ #11-63, Hashimi Property.

1. Comprehensive Plan

- a) Goals and Objectives - If the application is denied, the zoning classification would remain R-2, General Residential, and no further progress would be made in promoting the Goals and Objectives of the Comprehensive Plan.
 - b) Valid Public Purpose – If the application is denied, the valid public purposes stated in the Comprehensive Plan will continue to await further development of the neighboring property.
2. Community Input – Notice of the application has been transmitted to adjacent property owners. As of the date of this report, staff has not received any input from surrounding property owners.
3. Legal Uses of the Property – Those uses allowed in the R-2 zoning district would be permitted. Legal issues resulting from Town Council action are appropriately addressed by the Town Attorney.

C. Recommend approval of REZ #11-63, Hashimi Property, conditioned upon what proffers have been submitted prior to the public hearing.

1. Comprehensive Plan

- a) Goals and Objectives - If the application is approved, the zoning classification would become B-2, Neighborhood Business, conditioned upon submitted proffers. The Goals and Objectives of the Comprehensive Plan would be promoted upon development of the property and the adjacent property at 17706 Main Street.
 - b) Valid Public Purpose – If the application is approved conditioned upon proffers, the valid public purposes stated in the Comprehensive Plan will be promoted upon development of the property and the adjacent property at 17706 Main Street.
2. Community Input - Notice of the application has been transmitted to adjacent property owners. As of the date of this report, staff has not received any input from surrounding property owners.
3. Legal Uses of the Property – Upon approval of the rezoning, the subject site could be developed only with uses detailed in the proffers. Legal issues resulting from Town Council action are appropriately addressed by the Town Attorney.

D. Recommend approval of REZ #11-63, Hashimi Property, with no proffers.

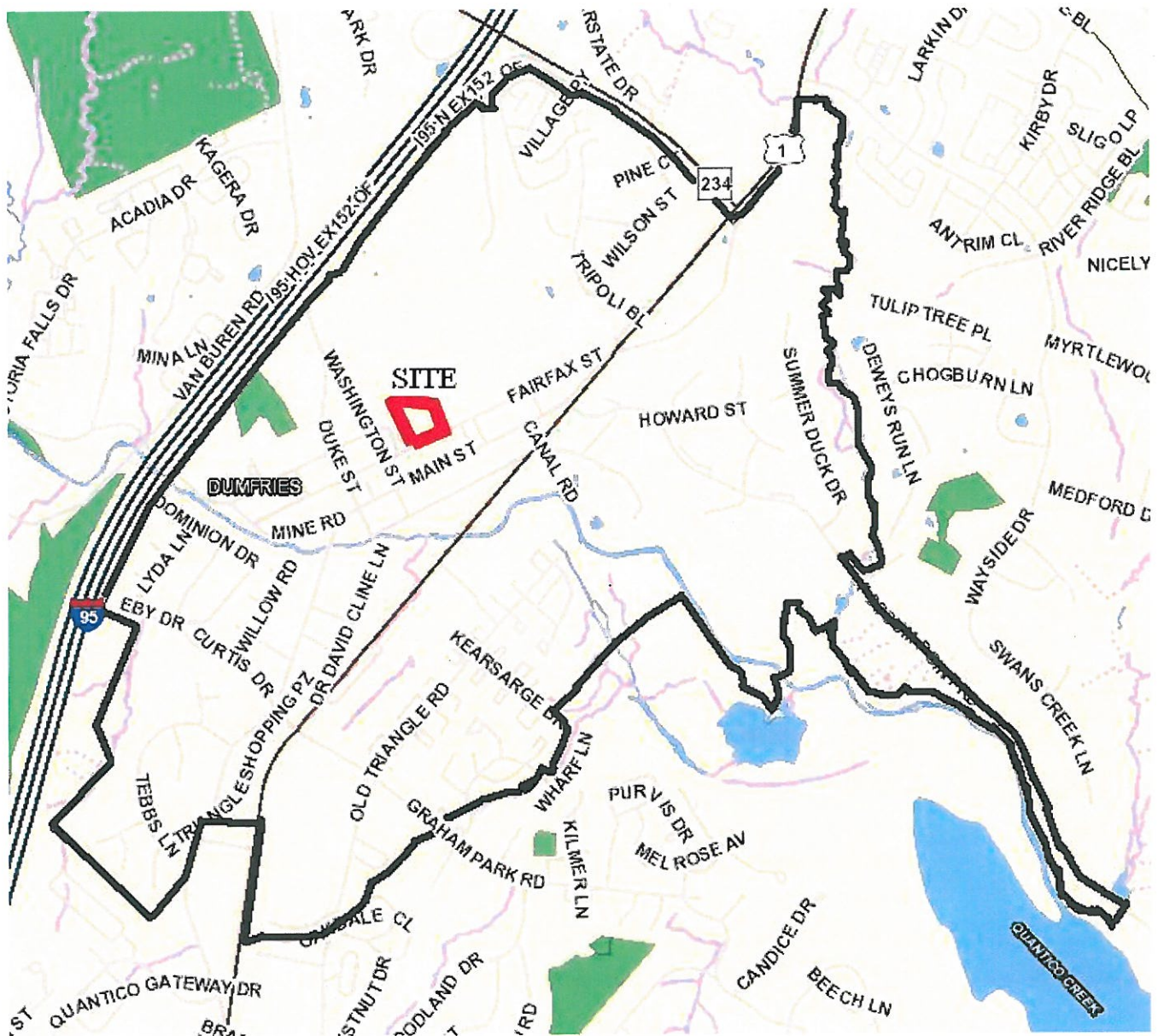
1. Comprehensive Plan

- a) Goals and Objectives - If the application is approved, the zoning classification would become B-2, Neighborhood Business, and the Goals and Objectives of the Comprehensive Plan could be promoted upon development of the property.
 - b) Valid Public Purpose – If the application is approved, the valid public purposes stated in the Comprehensive Plan could be promoted upon development of the property.
2. Community Input - Notice of the application has been transmitted to adjacent property owners. As of the date of this report, staff has not received any input from surrounding property owners.
3. Legal Uses of the Property – Upon approval of the rezoning, the subject site could be developed with uses permitted in the B-2 zoning district. Legal issues resulting from Town Council action are appropriately addressed by the Town Attorney.

- V. Recommendation is that the Town Council accept Alternative A and leave open the public hearing to allow for further review of proffers and additional time for any public comment, and continue this case to the next Town Council meeting on December 6th.**

Attachments

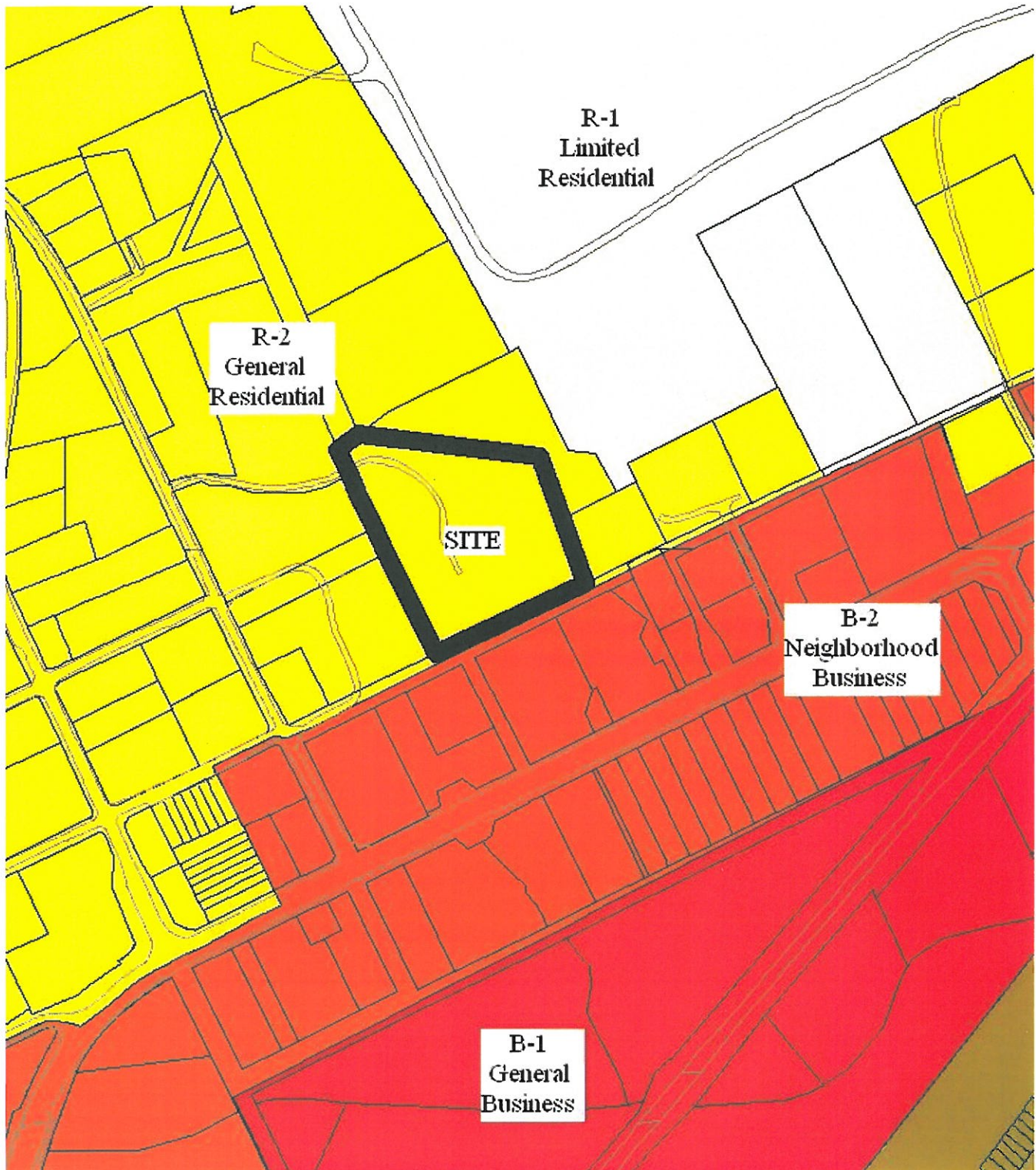
- A. Area Maps
- B. Staff Analysis



Location of the site in relation to the Town



Location of the site and adjacent properties



Zoning surrounding the property

Staff Recommendation: Recommend leaving open the public hearing to allow for further review of proffers and additional time for any public comment, and continuing this case to the next Town Council meeting on December 6th to allow staff time for more in-depth review of the proffers.

As of the writing of this staff report, staff has not yet received the proposed proffers from the applicant. Proffers are used to mitigate the impacts of rezonings. Staff will not have adequate time to review the proffers once they are submitted prior to the planned hearing on November 15th. Staff should review the proffers thoroughly prior to any action being taken by Council.

Overall, the rezoning combined with the future use of 17706 Main Street, promotes valid public purposes expressed in the Comprehensive Plan. The benefits of further development of Main Street with new uses not currently existing include enhanced economic development and job creation, further progress in the build-out of Main Street creating an enclosed public space with a sense of place, and additional tax base for the Town.

Relevant Comprehensive Plan Excerpts

***Please note:** The relevant excerpts reviewed here are from the existing Comprehensive Plan adopted in 2006. The proposed amendments to the Comprehensive Plan currently being reviewed by the Town are not being used, as they do not become relevant until such time as they have been adopted by Town Council.*

Chapters 3 and 4 of the Comprehensive Plan of the Town of Dumfries, adopted in 2006, address certain issues related to this application, specifically in regard to the Main Street corridor. The pertinent sections are included below:

3.1 LAND USE

- B. Goal: To promote the development of commercial retail, service and convenience uses within the Town that will provide economic benefits to the community.

Objective 1: Encourage development of commercial uses that meets the needs of the community.

- E. Goal: To encourage redevelopment of existing strip commercial development which will foster economic development and encourage a mix of compatible uses which are attractive and well designed.

Objective 1: Promote development of commercial uses that expands employment opportunities and serves as a focal point for the location of complementary uses.

3.5 ENVIRONMENT

A. Goal: To maintain and enhance the natural features of the Town, protect the environment from degradation, and foster public awareness of the environment and its natural beauty.

Objective 1: Protect the human and the natural environment, from the impacts of development and urbanization.

Strategies:

- a. Encourage creative design principles during new development and in particular redevelopment to provide more functional open space, preserve sensitive areas, maintain maximum indigenous tree cover, and minimize impervious land cover for the desired and permitted land use.

4.1 LAND USE

B. Main Street Commercial Corridor

1. In keeping with the Town's goals to promote the vitality and economic viability of its commercial and historic resources on Main Street, the Town will commission a Main Street Plan which will be coordinated with other economic development initiatives addressed in the Plan. The Main Street Plan will address the community's land use, aesthetic and design goals for the historic, general business and mixed use areas along Main Street, and will also address the need for transition between each of these areas which are intended to be different in character. The Main Street Plan should provide specific recommendations regarding building heights and setbacks, building architecture and site design, signage, landscaping, parking, lighting, vehicle and pedestrian access, and infrastructure installation. The Main Street Plan will provide the basis for the Town to evaluate needed ordinance amendments that will achieve the Town's stated land use, historic preservation and economic development goals.

D. Historic Commercial District

The Town currently has an adopted historic overlay district that is shown on Figure 23. The Town's goal has been to preserve the area around the three historic structures that remain in this section of the Town. Within the historic overlay zone, it is the Town's goal to promote mixed commercial and residential development which is compatible with the traditional historic Town character that was once found along the Route 1/Main Street corridor. To this end, the Town will pursue the following initiatives:

2. Pursuant to the completion of a Plan for Main Street, the Town will evaluate and amend as appropriate the B-2 zoning or historic overlay district to establish standards for the appropriate design and mix of uses

that are deemed to be compatible and in keeping with the historic character of the original Main Street. The incorporation of accessory upper-floor residential uses for infill commercial development should be considered in the B-2 zoning district along Main Street.

4.8 ECONOMIC AND FISCAL PLAN

The Town's goals for economic development are focused on promoting commercial development and the appearance of the Town's commercial corridors. Commercial taxes, such as transient and meals taxes, represent an important revenue source for the Town and should be fostered and maintained within the Town's larger economic development goals. However, the diversity and availability of certain types of commercial businesses like large retail anchor stores, grocery stores and professional offices, is limited in the Town. The attraction of these types of businesses to the Town would support a number of employment, economic and shopping needs for Town residents.

To achieve the stated economic development goals which will promote desirable commercial growth, the Town recognizes that numerous interrelated factors will influence the attraction of both businesses and their patrons. Physical improvements to the commercial sector, such as streetscape and building improvements, can enhance the sense of place and attraction. A sound business and customer base in turn contributes to a sound fiscal base for the community.

To achieve its economic development goals, the Town will pursue the following initiatives:

1. Analyze (1) the economic needs and trends of the community, (2) an appropriate mix of businesses for the Town, (3) new market niches that will assist in developing the proposed mixed use and historic commercial districts (for example, restaurants and specialty shops). Such a study should be a priority of the Town which will more clearly define a strategy for economic development.

Current Future Land Use Map Designation

The site is designated Greenway/Open Space/Recreational-Limited Development in the Future Land Use Map dated January 1993. The current zoning is already inconsistent with the Future Land Use Map designation. The proposed rezoning would allow a negligible change in the inconsistency.

Comprehensive Plan Consistency Analysis

<u>Plan language</u>	<u>Consistency</u>	<u>Reasons</u>
3.1 LAND USE	Yes	The proposed rezoning, which will support the development of the south immediately to the south which fronts on Main Street, will promote economic development and job creation in the Town.
3.5 ENVIRONMENT	Unknown at this time	Until proffers or a final site plan are submitted that specifically detail the environmental aspects of the proposed final site layout, no determination can be made as to the consistency of the proposal with the Comprehensive Plan's Environmental goals. Proffers could be offered by the applicant to dedicate a certain amount of open space, proffer a specific limit to impervious surface coverage, or preserve specific areas of the site.
4.1 LAND USE	Yes	The proposed rezoning, which will support the development of the south immediately to the south which fronts on Main Street, will promote the vitality and economic viability of its commercial and historic resources on Main Street.
4.8 ECONOMIC AND FISCAL PLAN	Yes	The proposed rezoning, which will support the development of the property immediately to the south which fronts on Main Street, will increase the amount of office space in the Town, which is somewhat underrepresented in the Town based on space currently available for rent and the number of inquiries Community and Economic Development staff receive for upscale office space in the Town.

Environmental Analysis

A draft site plan for the subject property and for 17706 Main Street has been submitted, but is not proffered as part of this rezoning. The site plan specifically shows changes to the location of the stream running through the properties. Approvals for this work would be achieved later, and improvements would be required to meet with standards of applicable review agencies, to possibly include the U.S. Army Corps of Engineers and state agencies such as the Department of Environmental Quality. The site does contain areas designated as 100-year Flood Hazard Overlay area. In order to better address the goals and objectives of the Comprehensive Plan regarding environmental issues, the owner could proffer certain green elements or Leadership in Energy and Environmental Design (LEED) certification and other low impact development methods.

Transportation Analysis

The proposed site plan for 17706 Main Street includes an access road through that property to the subject property. Additionally, discussions have occurred as to the possible use of Fairfax Street, currently a paper street, to be used for access to the subject site. A traffic impact analysis will be required at the time of site plan review for this use. The recent change to the plan for the

use of 17706 Main Street as office space instead of a conference/banquet/event center requires that less parking be built on the subject property. In addition, this might relieve the necessity of the use of Fairfax Street southwest of the stream. Town staff had been concerned that opening up Fairfax Street southwest of the stream to traffic would negatively impact the quality of life of the residences in the area of Washington Street. If traffic for the subject site is restricted to the main entrance of 17706 Main Street and Fairfax Street southwest of the stream was not used for this site, the effect on neighboring properties will be reduced.

Current Use of the Property

There are currently two structures on the property. One is a building formerly used as a single-family house, but no longer in use. The other is a building that is currently in the process of being completed for use as a house. If the single-family house is completed and receives a certificate of occupancy as a residence prior to the Town Council approving this proposed rezoning, the house would be allowed to continue as a lawfully non-conforming use until such time as a site plan for a new use has been approved and clearing and grading activities are scheduled to begin.

Zoning of Adjacent Properties

Rezoning the property from an R-2 zone to a B-2 zone would allow a different set of uses than currently allowed, and different from the surrounding properties. Changing the zoning of a property from residential to commercial is sometimes assumed to be an "upzoning." However, there is less of a clear increase in bulk allowances than in other "upzonings." The side yard requirements are identical for the property for each zone. There are no specific density or impervious surface coverage limits for either zone. B-2 zoning allows for structures up to 50 feet in height. R-2 zoning allows for structures up to 35 feet in height with the standard setbacks, or up to 45 feet in height with additional setbacks. Therefore while the types of uses will change, there is a modest to negligible increase in bulk allowances accompanying the rezoning proposal.

Because the bulk allowances are not proposed to be increased by a significant amount, the spatial development of the property based on B-2 zoning is not inconsistent with what is already allowed by right with the existing R-2 zoning, nor inconsistent with the bulk allowances of the surrounding R-2 properties. While the existing properties surrounding the site are developed at densities lower than allowed by right, existing and allowed densities must be considered when evaluating the compatibility with the surrounding properties.

Rezoning must be a valid exercise of legislative discretion where the action also serves some identifiable public interest. Without an identified public interest, the rezoning might be considered "spot zoning." While the term "spot zoning" is often construed as a rezoning of a property to a zoning classification different from the surrounding properties, *Clark v. Town of Middleburg*, 26 Va Cir. 472 (1990) held that this alone did not qualify a rezoning as a "spot zoning." Rather, a challenge to a rezoning must show that the legislative action to rezone the property did not identify and further a valid public interest. The valid public purposes identified in the case of this rezoning are the development of a site along the Main Street Commercial

Corridor in order to “Encourage development of commercial uses that meets the needs of the community” and “Promote development of commercial uses that expands employment opportunities and serves as a focal point for the location of complementary uses,” as stated in the Comprehensive Plan.